



ECOLOGICAL ADVICE SERVICE

TO: Lisa Fisher

FROM: Emma England

DATE: 13 March 2025

SUBJECT: 20241109 / Dene Holm House, Northfleet

The following is provided by Kent County Council's Ecological Advice Service (KCC EAS) for Local Planning Authorities. It is independent, professional advice and is not a comment/position on the application from the county council. It is intended to advise the relevant planning officer(s) on the potential ecological impacts of the planning application and if sufficient/appropriate ecological information has been provided.

Any additional information, queries or comments on this advice that the applicant or other interested parties may have must be directed in every instance to the planning officer, who will seek input from the EAS where appropriate and necessary.

SUMMARY – ADDITIONAL INFORMATION REQUIRED

We have reviewed the ecological and biodiversity net gain information submitted in support of this application and advise that additional information is sought from the applicant prior to determination of the planning application. This includes:

- A clear ecological impact assessment in relation to the potential of proposals to affect roosting bats. This needs to include an assessment of the buildings on-site for their suitability to support roosting bats and confirmation that no trees with bat roosting suitability will be removed from site, or further survey and proposed mitigations as necessary.

Developer Contributions will need to be provided due to the increase in dwellings within the zone of influence of a Special Protection Area.

Roosting Bats

Bats are fully protected through the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2017 (as amended). Some species of bat (e.g., noctule, soprano pipistrelle, brown long-eared) are also listed under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006 as Species of Principal Importance (aka. Priority Species) for conservation. Section 40 of the NERC Act

2006 places a general duty on all public authorities, including the local planning authorities, to conserve and enhance biodiversity. Government standing advice indicates that local planning authorities must have regard for the conservation of Section 41 species as part of their planning decisions.

The submitted preliminary ecological appraisal does not appear to be based on submitted plans. The design and access statement indicates:

“Minor external changes have been proposed to the existing building including new doors in existing window openings to allow residents to access private amenity spaces. There is currently a small disordered and cluttered courtyard extension which includes a timber deck, terrace and a garden-out house. It is proposed to remove these to create a more cohesive and organised internal elevation, private amenity and an opportunity to improve the landscaping”.

The preliminary ecological appraisal states:

“There are three buildings on site; one is a residential dwelling, the second is a garage, and the third is a storage building. The proposed works include the conversion of the main building into flats meaning the works are entirely internal and no assessment for bats or birds within the building has been carried out...”

It should be noted that the industry standard report for submission with a planning application is an Ecological Impact Assessment (EcIA)¹. A Preliminary Ecological Appraisal Report (PEAR) is *“normally produced to inform a developer (or other client), and their design team, about the key ecological constraints and opportunities associated with a project, possible mitigation requirements and any detailed further surveys required to inform an Ecological Impact Assessment (EcIA). Under normal circumstances it is not appropriate to submit a PEAR in support of a planning application because the scope of a PEAR is unlikely to fully meet planning authority requirements in respect of biodiversity policy and implications for protected species”*². A PEAR is not always based on final design plans.

As bats can access roosts via ill-fitting window casings and roost in out-buildings. Further commentary on the potential for the building to support bats is required. We also request confirmation regarding whether the roof and/or loft space could be affected in any way and whether these works could have disturbance or other risks to roosting bats. Given that the PEAR does not appear to be based on submitted plans, we request confirmation regarding the potential impact of proposals on roosting bats in trees.

North Kent Sites

The development includes proposals for new dwellings within the zone of influence (ZOI) (6km) of the Thames Estuary and Marshes Special Protection Area and its associated Wetlands of International Importance under the Ramsar Convention (Ramsar Site).

¹ CIEEM (2018) Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine version 1.2. Chartered Institute of Ecology and Environmental Management, Winchester.

² CIEEM (2017) Guidelines for Preliminary Ecological Appraisal, 2nd edition. Chartered Institute of Ecology and Environmental Management, Winchester.

Gravesham Borough Council must consider the impact the proposal will have on these designated sites in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended) and the National Planning Policy Framework (NPPF) 2024.

Gravesham Borough Council will need to ensure that the proposals fully adhere to the agreed approach within the North Kent Strategic Access Management and Monitoring Strategy (SAMMS). This is to mitigate for additional recreational impacts on the designated sites and to ensure that adequate means are in place to secure the mitigation before first occupation.

A decision from the Court of Justice of the European Union has detailed that mitigation measures cannot be taken into account when carrying out a screening assessment to decide whether a full Appropriate Assessment is needed under the Habitats Directive. Therefore, we advise that due to the need for the application to contribute to the North Kent SAMMS, there is still a need for an appropriate assessment to be carried out as part of this application.

The Conservation of Habitats and Species Regulations 2017 Regulation 63 (3) also indicates that for Special Areas of Conservation (SACs) and Special Protection Areas (SPAs): *"The competent authority must for the purposes of the assessment consult the appropriate nature conservation body and have regard to any representations made by that body within such reasonable time as the authority specifies."* The local planning authority (the "Competent Authority") must therefore consult with and take into consideration Natural England's advice in determining the application. The local planning authority also needs to be confident that proposals will not adversely affect these sites in line with the NPPF 2024³.

The responsibility for carrying out a Habitats Regulations Assessment (HRA) Screening and Appropriate Assessment lies with the Competent Authority, Gravesham Borough Council

Mandatory 10% Biodiversity Net Gain

Under the National Planning Policy Framework 2024, proposals achieving a biodiversity net gain with no specific percentage target should be viewed favourably⁴. Under the Environment Act 2021, all planning applications for development (unless exempt^{5,6}) must deliver at least a 10% biodiversity net gain. Unless exempt, every planning permission

³ "When determining planning applications, local planning authorities should apply the following principles:

a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; and

"The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site."

⁴ Appeal decisions (Planning Inspectorate (2022). Appeal Decisions APP/Y3940/W/21/3278256, APP/Y3940/Q/21/3278923, APP/Y3940/W/21/3282365) have clarified that:

- "Paragraph 174 [now 187] of the Framework [the NPPF encourages applicants to], ... seek a net gain in biodiversity without identifying a specific percentage..."
- The relevant Core Strategy may "...seek a net gain in biodiversity without identifying a specific percentage..."; and
- "A net gain of just 1% would be policy compliant..."

⁵ [Biodiversity net gain: exempt developments - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/biodiversity-net-gain-exempt-developments)

⁶ [The Biodiversity Gain Requirements \(Exemptions\) Regulations 2024 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukdsi/2024/0001/eng/sched/1)

granted pursuant to an application is deemed to have been granted subject to a pre-commencement condition requiring a Biodiversity Gain Plan to be submitted and approved by the local planning authority prior to commencement of the development.

We highlight that local policy may expect a higher than 10% biodiversity net gain and that 'significant'⁷ on-site habitat gains, and off-site habitats created/enhanced to achieve biodiversity net gain will need to be secured for at least 30 years after the development is completed. This must be secured either by a planning condition, planning obligation, or conservation covenant⁸.

Having reviewed submitted information, we consider this application to fall under mandatory biodiversity net gain.

Detailed advice regarding biodiversity net gain requirements and submitted information is provided in Appendix 1, a summary is provided below.

Having reviewed the submitted information, we consider that the applicant has provided the minimum information required prior to determination.

If you have any queries regarding our comments, please do not hesitate to get in touch.

Emma England
Biodiversity Officer

This response was submitted following consideration of the following documents:

Arbtech (November 2024) Biodiversity Net Gain Assessment. Dene Holm, Deneholm Road, Northfleet, Gravesend, DA11 8JY.

Arbtech (October 2024) Preliminary Ecological Appraisal. Dene Holm, Deneholm Road, Northfleet, Gravesend, DA11 8JY.

Brook Murray Architects (December 2024) Application for Planning Permission. Gravesham Borough Council. Dene Holm House, DA11 8JY.

Brook Murray Architects (November 2024) Design and Access Statement. Dene Holm House, DA11 8JZ.

⁷ [Make on-site biodiversity gains as a developer - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/make-on-site-biodiversity-gains-as-a-developer)

⁸ Paragraph 14(2) of Schedule 7A Town and Country Planning Act 1990

Appendix 1 – Biodiversity Net Gain Advice

This application was received on 6th December 2024, with the application form declaration signed 2nd December 2024, according to the information available on the planning portal.

The site is 4,659 square metres (0.46 hectares) in size, according to the information in the application form. The habitat area reported in the biodiversity metric calculation tool matches the reported red line boundary site area as per the application form.

We note that biodiversity calculations indicate that there is likely to be a greater than 10% on-site biodiversity net gain (13.8% biodiversity net gain in area habitats and a 57.47% biodiversity net gain in hedgerow habitats).

We have completed the below table to show how the applicant has demonstrated the capability of providing a biodiversity net gain of 10% in line with the minimum requirements prior to determination⁹.

Information Needed	Provided	Comments
Confirmation that the applicant believes that planning permission, if granted, the development would be subject to the biodiversity gain condition.	Yes	In application form.
The pre-development biodiversity value(s), either on the date of application or earlier proposed date (as appropriate) .	Yes	A site survey was carried out on 11 th October 2024.
Where the applicant proposes to use an earlier date, this proposed earlier date and the reasons for proposing that date.		
The completed metric calculation tool showing the calculations of the pre-development biodiversity value of the onsite habitat on the date of application (or proposed earlier date) including the publication date of the biodiversity metric used to calculate that value.	Yes	
A statement whether activities have been carried out prior to the date of application (or earlier proposed date), that result in loss of onsite biodiversity value (‘degradation’), and where they have: - a statement to the effect that these activities have been carried out; - the date immediately before these activities were carried	Yes	No degradation reported.

⁹ <https://www.gov.uk/guidance/biodiversity-net-gain#para11>

out; - the pre-development biodiversity value of the onsite habitat on this date; - the completed metric calculation tool showing the calculations, and - any available supporting evidence of this.		
A description of any irreplaceable habitat (as set out in column 1 of the Schedule to the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) on the land to which the application relates, that exists on the date of application, (or an earlier date).	-	None reported
Plan(s), drawn to an identified scale and showing the direction of North, showing onsite habitat existing on the date of application (or earlier proposed date), including any irreplaceable habitat (if applicable).	Yes	

If planning permission is granted, the statutory biodiversity gain condition (and its reason for imposition) should not be included on decision notices. Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 sets out the biodiversity net gain information which needs to be included on non-exempted decision notices. The Planning Practice Guidance (Paragraph: 026 Reference ID: 74-026-20240214)¹⁰ provides a link to a document with [suggested paragraphs for Biodiversity Gain Information](#) to fulfil these requirements.

If planning permission is granted, the decision notice must set out (as far as relevant):

- Information relating to the biodiversity gain condition, including exemptions to the condition, and transitional provisions in relation to that condition;
- Information to note the effect that section 73(2D) of the Town and Country Planning Act 1990 applies (that an earlier biodiversity gain plan in relation to a previous planning permission is regarded as approved);
- The [planning authority](#) for the purposes of the Biodiversity Gain Plan;
- Requirements relating to [irreplaceable habitats](#); and
- Where [development is to proceed in phases](#), a statement to that effect, and that the development cannot begin before an [Overall Biodiversity Gain Plan](#) and [Phase Biodiversity Gain Plan](#) have been submitted to, and approved by the planning authority, and that a Phase Biodiversity Gain Plan is required to be approved before that phase may begin.

¹⁰ [Biodiversity net gain - GOV.UK \(www.gov.uk\)](#)

As part of the Biodiversity Gain condition discharge application (which must be made prior to the commencement of development), the applicant should submit a biodiversity gain plan form¹¹ along with supporting information (e.g., legal agreement and habitat management and monitoring plan) once planning permission has been granted to demonstrate in more detail how the proposed biodiversity net gain will be delivered. The biodiversity gain plan must include the following information:

- Information about steps taken or to be taken to minimise the adverse effects of the development on biodiversity;
- The pre-development biodiversity value of the on-site habitat;
- The post-development biodiversity value of the on-site habitat;
- Any registered off-site biodiversity gain allocated to the development and the biodiversity value of that gain in relation to the development;
- Any biodiversity credits purchased for the development; and
- Any other matters that the Secretary of State may specify.

When calculating the post-development biodiversity value of a habitat, the planning authority can only take into account an increase in biodiversity value post-development where it is satisfied that the habitat creation or enhancements delivering the increase will be maintained for at least 30 years after the development is completed. This must be secured either by a planning condition, planning obligation, or conservation covenant¹².

Neither the statutory definition of the biodiversity gain plan, nor the current DEFRA biodiversity gain plan template require management and maintenance measures to be specified. Consequently, the statutory condition does not on its own secure compliance with the approved biodiversity gain plan (including the implementation of any habitat creation and enhancement works or their maintenance for a 30-year period). The DEFRA biodiversity gain plan template¹³ acknowledges a Habitat Management and Monitoring Plan (HMMP) can be annexed to the approved plan. The statutory condition does not require the HMMP to be approved even if it is attached, therefore delivery of the gain envisaged by an HMMP needs to be secured by condition, or legal agreement. Significant habitat creation and enhancement on-site can be secured by condition. Guidance on what constitutes significant is available as government standing advice¹⁴:

- Significant enhancements contribute significantly to the proposed development's biodiversity net gain relative to the biodiversity value before development and would normally be:
 - Habitats of medium or higher distinctiveness in the biodiversity metric;
 - Habitats of low distinctiveness which create a large number of biodiversity units relative to the biodiversity value of the site before development;
 - Habitat creation or enhancement where distinctiveness is increased relative to the distinctiveness of the habitat before development;
 - Areas of habitat creation or enhancement which are significant in area relative to the size of the development;
 - Enhancements to habitat condition.

¹¹ [Biodiversity gain plan - GOV.UK \(www.gov.uk\)](https://www.gov.uk/biodiversity-gain-plan)

¹² Paragraph 14(2) of Schedule 7A Town and Country Planning Act 1990

¹³ [Biodiversity gain plan - GOV.UK \(www.gov.uk\)](https://www.gov.uk/biodiversity-gain-plan)

¹⁴ [Make on-site biodiversity gains as a developer - GOV.UK \(www.gov.uk\)](https://www.gov.uk/make-on-site-biodiversity-gains-as-a-developer)

Non-significant enhancements are those whose loss will not significantly decrease the development's biodiversity value e.g., private gardens or container planting. These types of enhancements do not normally require maintenance provisions and so no HMMP, legal agreement or commitment to maintain them is required.

Achieving a minimum 10% biodiversity net gain from proposals is reliant on implementation of a detailed planting plan and the implementation of a suitable habitat management and monitoring plan¹⁵ secured through planning condition or obligation. Significant on-site biodiversity net gain may require a section 106 agreement to secure monitoring fees to be paid to the Local Planning Authority.

¹⁵ [Creating a habitat management and monitoring plan for BNG - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/creating-a-habitat-management-and-monitoring-plan-for-biodiversity-net-gain)